

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, SOUTHERN DIVISION

UNITED STATES OF AMERICA)
)
 v.) CRIMINAL ACTION NO.
) 1:06cr107-MHT
MICHAEL D. HARVEY)

ORDER

This cause is before the court on the motion to continue filed by defendant Michael D. Harvey on June 21, 2006. This case is currently set for trial in the August 7, 2006 term. For the reasons set forth below, the court finds that the trial should be continued pursuant to 18 U.S.C.A. § 3161(h)(8).

While the granting of a continuance is left to the sound discretion of the trial judge, United States v. Stitzer, 785 F.2d 1506, 1516 (11th Cir. 1986), the court is limited by the requirements of the Speedy Trial Act, 18 U.S.C.A. § 3161. The Act provides in part as follows:

"In any case in which a plea of not guilty is entered, the trial of a

defendant charged in an information or indictment with the commission of an offense shall commence within seventy days from the filing date (and making public) of the information or indictment, or from the date the defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs."

Id. § 3161(c)(1). However, the Act excludes from the 70-day period any continuance based on "findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." Id. § 3161(h)(8)(A).

This court finds that the ends of justice served by continuing this trial outweigh the best interest of the public and Harvey in a speedy trial. Counsel for Harvey is currently attempting to gather relevant personal information and records located out of state, where Harvey resided prior to his arrest. These records will also be of use in ongoing testing of Harvey's psychiatric and mental-health conditions. The government does not

oppose a continuance in this case, and Harvey has filed a waiver of his Speedy Trial Act rights.

Accordingly, it is ORDERED that defendant Michael D. Harvey's motion to continue (Doc. No. 24) is granted, and that his trial is continued to the criminal term of court beginning on November 6, 2006, at 10:00 a.m. in Courtroom 2FMJ of the Frank M. Johnson Jr. United States Courthouse Complex, One Church Street, Montgomery, Alabama.

DONE, this the 22nd day of June, 2006.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE